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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EMELIO VLADIMIR ROCHESTER,

Defendant.

CASE NO: 2:21-cr-00293-CDS-NJK

AMENDED STIPULATION TO
VACATE TRIAL DATE

It is hereby stipulated and agreed, by and between Jason M. Frierson, United States Attorney, through Jim W. Fang, Assistant United States Attorney, and Daniel Hill, Esq., counsel for Defendant Emelio Vladimir Rochester, that the trial in the above-captioned matter, previously scheduled for September 26, 2022, at 9:00 a.m., be vacated.

This Stipulation is entered into for the following reasons:

1. Trial in this matter is currently set for September 26, 2022.
2. However, Pretrial Services have informed both the Court and the government that defendant no longer resides at the address provided to Pretrial Services and that defendant's current whereabouts are unknown. *See* ECF No. 87.
3. Moreover, counsel for defendant has indicated that he has been unable to contact defendant, and that defendant's current whereabouts are also unknown to him. This is particularly relevant because the government was actively engaging in

1 plea negotiations with defense counsel, has provided a written plea offer, and gave
2 affirmative deadlines for defendant to respond. Defense counsel was unable to
3 respond to the government's offer because he could not contact defendant.

4 4. A warrant has been issued for defendant's arrest based on his
5 absconding from pretrial supervision. ECF No. 88. The arrest warrant was
6 forwarded to both the U.S. Marshals and the case agent, who are actively attempting
7 to locate defendant. For example, the U.S. Marshals has visited his last known
8 address, and was told by property management that he moved out as of July 31,
9 2022. The U.S. Marshals also received a tip that defendant might be living with
10 another individual, but upon a visit to that address, they were informed that said
11 individual has also moved out of her apartment. The U.S. Marshals are actively
12 investigating other leads, but unfortunately, they have yet to ascertain defendant's
13 whereabouts.

14 5. Under the Speedy Trial Act, Title 18, United States Code, Section 3161 et.
15 seq., "[a]ny period of delay resulting from the absence or unavailability of the defendant" is
16 excludable "in computing the time within which the trial of any such offense must
17 commence[.]" 18 U.S.C. § 3161(h)(3)(A). "[A] defendant . . . shall be considered absent
18 when his whereabouts are unknown and, in addition, he is attempting to avoid
19 apprehension or prosecution or his whereabouts cannot be determined by due diligence." 18
20 U.S.C. § 3161(h)(3)(B). Here, defendant's whereabouts are unknown, and given the timing
21 of his absconding, the violation of his release conditions, and that he has not been in contact
22 with his own attorney, it is likely that his absence is an attempt to avoid prosecution, *i.e.*, his
23 upcoming criminal trial. Moreover, the government is taking affirmative steps to locate
24 defendant, but so far, those efforts have been unsuccessful.

1 6. As such, the parties respectfully request that the Court vacate the current trial
2 date. After defendant is found and arrested, the parties will request a new trial date from the
3 Court that gives the parties a reasonable opportunity to secure the availability of witnesses
4 for the yet-to-be-determined trial date.

5 7. As stated above, the time between the currently scheduled date and the new
6 trial date set upon defendant's apprehension is excludable in computing the time within
7 which the trial must start under the Speedy Trial Act due to defendant's absence.

8 Dated this 20th day of September, 2022.

9 JASON M. FRIERSON
10 United States Attorney

11 By: s/ Jim W. Fang
JIM W. FANG
Assistant United States Attorney

By: s/ Daniel Hill
DANIEL HILL, ESQ.
Counsel for Defendant

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EMELIO VLADIMIR ROCHESTER,

Defendant.

CASE NO: 2:21-cr-00293-CDS-NJK

ORDER

Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court finds that:

1. Trial in this matter is currently set for September 26, 2022.

2. However, Pretrial Services have informed both the Court and the government that defendant no longer resides at the address provided to Pretrial Services and that defendant's current whereabouts are unknown.

3. Moreover, counsel for defendant has indicated that he has been unable to contact defendant, and that defendant's current whereabouts are also unknown to him. This is particularly relevant because the government was actively engaging in plea negotiations with defense counsel, has provided a written plea offer, and gave affirmative deadlines for defendant to respond. Defense counsel was unable to respond to the government's offer because he could not contact defendant.

4. A warrant has been issued for defendant's arrest based on his absconding from pretrial supervision. ECF No. 88. The arrest warrant was forwarded to both the U.S. Marshals and the case agent, who are actively attempting to locate defendant. For example, the U.S. Marshals has visited his last known address, and was told by property management that he moved out as of July 31, 2022. The U.S. Marshals also received a tip that defendant

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21 trial date set upon defendant's apprehension is excludable in computing the time within
22 which the trial must start under the Speedy Trial Act due to defendant's absence.

ORDER

IT IS HEREBY ORDERED that the trial in *United States v. Emelio Vladimir Rochester*, 2:21-CR-293-CDS-NJK, previously scheduled for September 26, at 9:00 a.m. is VACATED.

Dated this 22nd day of September, 2022.

By: 
JUDGE CRISTINA D. SILVA
UNITED STATES DISTRICT JUDGE